THE HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION Nos.1400, 1409 and 1419 of 2006

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Dated:28.01.2006

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WRIT PETITION No.1400 of 2006

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Between:

Manne Satyanarayana, S/o.Basava Kotaiah.

…Petitioner

And

The Ponnuru Municipality, Rep. By its Commissioner, Ponnuru,

Guntur District, and another.

…Respondents

WRIT PETITION No.1409 of 2006

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Between:

Kollipara Nageswara Rao, S/o.Venkateswarulu.

…Petitioner

And

The Ponnuru Municipality, Rep. By its Commissioner, Ponnuru,

Guntur District, and another.

…Respondents

WRIT PETITION No.1419 of 2006

Between:

Kolliparti Subbarao, S/o.Vakkiah.

…Petitioner

And

The Ponnuru Municipality, Rep. By its Commissioner, Ponnuru,

Guntur District, and another.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.1400, 1409 and 1419 of 2006

COMMON ORDER:

Resolution No.211, dated 31.10.2005 passed by the Municipal Council, Ponnuru Municipality, is assailed in these writ petitions. Therefore, these matters are being disposed of by this common order.

The facts in W.P.No.1400 of 2006 are noted as follows. The second respondent-Municipality leased out municipal shops on 30.01.1994 on a monthly rental of Rs.980/-. After expiry of three years, the lease was renewed with effect from

30.01.1997 after the petitioner agreed to enhance the monthly rental at the rate of 33.33% above the earlier rent i.e., Rs.1307/- per month. Again after the expiry of the lease, it was renewed in 2000 on a monthly rental of Rs.1743/-, and yet again the lease was renewed with effect from 31.01.2003 on a monthly rent of Rs.2324/-, and the present lease is valid up to 31.01.2006.

In the other two writ petitions also the initial rent was subsequently renewed and enhanced at the rate of 33.33% for every three years. The second respondent-Municipality passed the impugned resolution whereby and whereunder it was decided to auction the leasehold rights instead of renewing the lease in favour of the petitioners. Aggrieved by the same, the petitioners filed the present writ petitions contending that on 04.01.2006 (in W.P.Nos.1400 and 1409 of 2006) and 03.01.2006 (in W.P.No.1419 of 2006) they made applications to the second respondent-Municipality willing to renew lease by enhancing the rent at the rate of 33.33% above the present rent.

The learned Counsel for the petitioners placed strong reliance on the second proviso to Rule 12 of the Andhra Pradesh Municipalities (Regulation of Receipts and Expenditure) Rules, 1968 (for short 'the Rules') and contends that under the said proviso, the lessee of the municipal shops is entitled to continue in lease for a period not exceeding twenty-five years and the Municipality is bound to renew the lease without conducting public auction. **Per contra,** the learned Standing Counsel for the second respondent submits that the Municipality has unanimously decided to put the shops to auction and that the Rule does not confer any right for an automatic renewal of the lease.

Rule 12 of the Rules is to the effect that all leases of buildings shall be effected by Municipality by public auction which shall be conducted by the Commissioner or by a person authorized by him. The second proviso to Rule 12(1) reads as under.

> Provided further that in the case of the properties referred to in clause (e), the Municipal Council may renew the lease for a period of three years at a time and with the prior sanction of the Government for a period exceeding three years and not exceeding twenty-five years without conducting public auction, if the present lessee agrees to renew the lease in his favour at an amount which will be at 33 1/3 % above the earlier rent or the prevailing market value of such shops situated in the vicinity, whichever is higher.

A plain reading of the above proviso would show that the Municipal Council is given discretion to renew the lease for a period of three years at a time and with the prior sanction of the Government for a period exceeding three years and not exceeding twenty-five years. The said Rule confers the discretion on the Municipal Council and does not confer any right on a lessee to continue lease for a period of twenty years. Further, the Municipal Council unanimously resolved not to renew the lease in favour of the petitioners, but decided to conduct auction, which is certainly in public interest. The petitioners have not placed any document to show that the Government has sanctioned the renewal of lease in favour of the petitioners. Even according to the petitioners from 1994 onwards, they are continuing as lessees without there

being any auction and they cannot now compel the respondent-Municipality to lease out the shops to them. The petitioners have failed to prove any right that vests in them for seeking the relief as prayed for.

These Writ Petitions are misconceived and are accordingly dismissed. No costs.

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(V.V.S.RAO, J)

28.01.2006

vs